

ORIGINAL

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

RECEIVED
JUN 2 1996

In the Matter of)
)
Implementation of the)
Telecommunications Act of 1996:)
)
Telecommunications Carriers' Use)
of Customer Proprietary Network)
Information and Other)
Customer Information)

CC Docket No. 96-115

DOCKET FILE COPY ORIGINAL

**REPLY COMMENTS OF THE
ALARM INDUSTRY COMMUNICATIONS COMMITTEE**

The Alarm Industry Communications Committee ("AICC"), by its attorneys, respectfully submits this reply to the initial comments filed on June 11, 1996 in the above-captioned docket. As shown below, the Commission should adopt a simple, straightforward rule to ensure local exchange carriers ("LECs") do not misuse data concerning the occurrence or contents of calls to alarm providers.¹

As the AICC explained in its initial comments, alarm service providers are critically dependent upon the LECs for communications services essential to the provision of

¹ AICC continues to support vigorous rules for CPNI within the scope of Section 222, as advocated in its initial comments. However, AICC will focus in this reply solely on Section 275(d) due to its importance in the alarm monitoring context.

024

alarm monitoring services.² Typical monitored alarm systems use either private lines, derived local channel technology, or calls placed over the public switched network -- all of which are supplied by a LEC -- in order to provide a remote monitoring link between the customer premises and the alarm provider.³ If any of these links were impaired or degraded, an alarm provider's business could be jeopardized significantly.

AICC also explained in its initial comments that an alarm system uses LEC facilities in ways that provide valuable information to a LEC, particularly if that LEC is engaged in the alarm monitoring business. Users of private line alarm circuits or derived local channel services could be identified as such and targeted for marketing. Users relying on the public switched network also can be identified. For example, LEC switch records showing calls placed from alarm customers or received by alarm providers could be used to gather information on alarm customers, including which subscribers use alarm services, which provider they use, and the frequency of their alarm signals.⁴ Alternatively, this information could be used to gather information on alarm competitors, including the size of their customer base, the geographic scope of their operations, and demographic characteristics of their customers.⁵ The LECs' access to information of this type presents a real danger of anticompetitive conduct by a LEC competing in the alarm business.

² AICC Comments at 2-4.

³ *Id.* at 3-4.

⁴ *Id.* at 2-3.

⁵ *Id.*

AICC urged the Commission to adopt rules to prevent the LECs from abusing their control over this information. AICC noted that Section 275(d) imposed restrictions independent of and in addition to the LECs' obligations to safeguard CPNI under Section 222 of the Act. AICC therefore supported the adoption of rules prohibiting the use of alarm service data for marketing purposes and segregating employees with alarm monitoring responsibilities from access to CPNI data.⁶

Of the over 40 parties submitting initial comments, only four commenters other than AICC addressed Section 275(d) of the Act.⁷ These parties unanimously agree with AICC that Section 275(d)'s prohibition on the use of alarm monitoring data applies *in addition to* Section 222's CPNI restriction. Each agrees that customer authorization does not permit the LEC to utilize alarm marketing data -- even if that data might also fit the definition of CPNI.⁸ Thus, a LEC may not in any circumstances access data on the "occurrence or contents of calls" to alarm monitoring providers for its own marketing purposes, or for purposes of marketing another entity's services. As the California PUC emphasized, Section 275(d) creates a "blanket exclusion" on the use of alarm monitoring data.⁹

⁶ *Id.* at 6-7. AICC also urged a written customer consent requirement for a LEC to access CPNI for its own marketing purposes. *Id.* at 9-10.

⁷ Ameritech Comments at 20-21; California PUC Comments at 4-5; MCI Comments at 24-25; SBC Communications Comments at 19.

⁸ Ameritech Comments at 20; California PUC Comments at 4-5; MCI Comments at 25; SBC Communications Comments at 19.

⁹ California PUC Comments at 5; *see also* AICC Comments at 6 (Section 275(d) does not authorize access in cases of customer consent).

AICC recommends that this principle be set forth in the Commission's rules. The principle, though obvious and apparently noncontroversial, is nonetheless important to establish. It could be accomplished with a simple prohibition, using the statute's own language, to carry out the broad mandate of Section 275(d). It also, however, should be supported with a rule clarifying that consent to access CPNI does not confer authorization to access alarm service data, and requiring that LEC personnel with responsibility for marketing alarm monitoring services be restricted from accessing CPNI data because it may also contain alarm service data.¹⁰

Although Section 275(d) applies even without FCC-prescribed rules, the Commission should reject the suggestion of Ameritech and SBC to do nothing. Contrary to SBC's claim, customers using the switched network for alarm monitoring are not "unknown to a serving LEC;"¹¹ a LEC can identify and target these customers through a simple analysis of their customers' call records. For example, LECs are aware of the telephone numbers connected to alarm monitoring centers and could easily identify subscribers calling such numbers, capturing, in addition to the customer name, address and telephone, also the time, date, and frequency of such calls.¹² Further, it is not true that "adequate procedures already exist" to prevent such misuses of alarm service data, as Ameritech argues.¹³ Ameritech has not shown that it (or other LECs) password-protect alarm service data to deny

¹⁰ Sample language for these rules is provided in Attachment A.

¹¹ SBC Comments at 19.

¹² See AICC Comments at 2-3.

¹³ Ameritech Comments at 20.

CPNI access to persons engaged in the marketing of alarm services.¹⁴ All LECs -- whether Ameritech or a smaller independent LEC -- should be required to restrict alarm personnel from accessing CPNI that contains data within the scope of Section 275(d).¹⁵

Such a restriction neither is overly burdensome nor involves extensive regulatory oversight. All it requires is a rule prohibiting access to CPNI by any LEC's personnel involved in the marketing of alarm monitoring services. Enforcement could be provided through the Commission's formal and informal complaint processes as needed.¹⁶

Accordingly, AICC recommends that, in addition to adopting rules governing the use of customer CPNI by LECs and other telecommunications carriers,¹⁷ the Commission also should adopt rules barring the LECs from using alarm service data for marketing purposes. Even if they obtain consent to use CPNI, LECs may not use data on the occurrence or contents of calls to alarm providers in order to market their own alarm

¹⁴ See AICC Comments at 9-10; *see also* MCI Comments at 25.

¹⁵ In AICC's view, the need for clarity in this regard is emphasized by the fact that the only LECs arguing against a rule are the BOC already in the alarm business (Ameritech) and one with a pending CEI filing to enter the business (SBC).

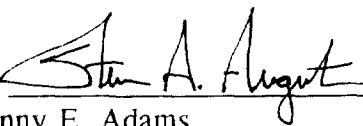
¹⁶ As AICC explained in its initial comments, the Commission should consider expedited complaint processing procedures for such violations. AICC Comments at 7.

¹⁷ See AICC Comments at 7-11.

services, or those of an affiliated or unaffiliated third party. Simple rules articulating this principle and restricting access to alarm service data contained in CPNI are appropriate.

Respectfully submitted,

**ALARM INDUSTRY COMMUNICATIONS
COMMITTEE**

By _____

Danny E. Adams

Steven A. Augustino

KELLEY DRYE & WARREN, LLP

1200 Nineteenth Street, N.W., Suite 500

Washington, D.C. 20036

202-955-9600

Its Attorneys

June 26, 1996

ATTACHMENT A

Proposed Rule Implementing Section 275(d) of the Act:

- a) A LEC may not record or use in any fashion data concerning the occurrence or contents of calls received by a provider of alarm monitoring services for the purpose of marketing alarm monitoring services, whether its own services, an affiliate's services, or those of any other entity.
- b) Authorization from a customer to access customer proprietary network information pursuant to [CPNI rule] does not apply to data covered by paragraph (a). A LEC may not permit persons with responsibility for the marketing of alarm monitoring services to access CPNI that may contain information covered by paragraph (a).